

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION

KIM GENTRY,)
)
Plaintiff,)
)
v.) Case No. 2:08-0123
) Judge Echols
THE HERSHEY COMPANY,)
LIBERTY DISTRIBUTION, LLC, and)
PETCO ANIMAL SUPPLIES, INC.,)
)
Defendants.)

ORDER

For the reasons set forth in the accompanying Memorandum, the Court hereby enters the following rulings:

- (1) Defendant Liberty Distribution LLC's Motion for Summary Judgment (Docket Entry No. 51) is hereby GRANTED;
- (2) Defendant Liberty Distribution LLC's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment as to Punitive Damages (Docket Entry No. 54) is hereby DENIED AS MOOT;
- (3) Defendant The Hershey Company's Motion for Summary Judgment (Docket Entry No. 56) is hereby GRANTED, but its request in the same filing that the Court enter a final judgment as to the claims against it is hereby DENIED;
- (4) Defendant Petco's Motion for Partial Summary Judgment on the Issue of Punitive Damages (Docket Entry No. 57) is hereby GRANTED;
- (5) Defendant Petco Animal Supplies, Inc.'s Motion for Summary Judgment (Docket Entry No. 62) is hereby GRANTED with respect to Plaintiff's strict liability, breach of express warranty

and negligence *per se* claims, but DENIED with respect to Plaintiff's negligence and breach of implied warranty claims;

(6) Defendant Petco Animal Supplies, Inc.'s Motion to Bifurcate Damages Issue at Trial (Docket Entry No. 65) is hereby DENIED AS MOOT; and

(7) Defendant Petco Animal Supplies, Inc.'s Motion to Exclude From Consideration the Untimely Affidavit Testimony of Plaintiff's Designated Expert (Docket Entry No. 89) is hereby GRANTED.

Based on these rulings, the jury trial in this case will commence in Cookeville, Tennessee, at 9:00 a.m. on March 2, 2010 on Plaintiff Kim Gentry's claims against Petco for negligence and breach of implied warranty. The Final Pretrial Conference will be held on February 8, 2010 at 1:30 p.m.

It is SO ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE